IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1901 OF 2007

Shri Ankush Dnyaneshwar Bhondve.... Applicant.

V/s.

The State of Maharashtra. ... Respondent.

Ms.Surekha Jangam for the applicant.

S.S.Pednekar, APP for the State.

CORAM: V.C.DAGA, J.

DATED: 23rd August 2007.

P.C.:

. Heard learned counsel for the applicant and learned A.P.P. for the State.

2. The applicant is seeking bail in connection with C.R.No.264/2005 registered with Loni Kalbhor Police Station, district- Pune for the offences punishable under sections 364, 302, 201 read with section 34 of Indian Penal Code.

3. The first ground sought to be raised is that one of the co-accused Jagdish Narayan Shukla, from whom gold bar was recovered, has been released on bail by this Court vide order date 12th April, 2007 passed in Criminal Application No.921/2007. According to the

learned counsel for the applicant, the case of the present applicant stands on higher footing than that of Jagdish in view of the fact that recovery of Rikshaw cannot be said to be only at the instance of the present applicant, especially, when other three accused persons have also stated in their statement about the rikshaw and parking thereof at a particular place. It is a public place. There is no eye witness to incidence alleged.

4. The learned counsel for the applicant has relied upon the Apex Court judgment in the case of **Pohalya Motya Valvi v. State of Maharashtra**, 1979 Cri.L.J. 1310 to contend that if the statement of the accused is found to be capable of two interpretations, then conviction thereon cannot be based on his statement and the alleged recovery.

5. Considering the submissions made and recovery of rikshaw and also considering that bail has already been granted to one co-accused Jagdish Shukla, I am inclined to grant bail to the applicant, subject to the following conditions:

(a) The applicant, arrested in connection with C.R.No.264/2005 registered with Loni Kalbhor Police Station, district- Pune shall be enlarged on bail in the sum of Rs.10,000/-

with one or two local sureties to make up the said amount.

(b) The applicant shall report to the concerned Police Station once in a week, i.e. on every Saturday between 3.00 to 5.00 p.m. till conclusion of the trial.

(c) The order of bail will be given effect only after the applicant furnishes to the investigating officer the details about his place of residence and address where he proposes to stay after he is enlarged on bail. The applicant will not change his residential address thereafter till the conclusion of trial without prior intimation to the investigating officer.

(d) The applicant shall not directly or indirectly, make any inducement or threat or pressurise any prosecution witnesses and shall not in any manner tamper with the prosecution evidence.

(e) The applicant shall co-operate with the investigating agency for disposal of the case. It is needless to mention that breach of any of the conditions by the applicant shall result in cancellation of bail.

(f) Any observation made in this order shall not be construed as finding or expression on merits of the case at the time of trial.

6. Application stands disposed of accordingly.

JUDGE